

## Procedures for Public Access to the Records of the City of Rye

### Section 1. Purpose and scope

- (a) These regulations are established pursuant to Article 6 of the Public Officers Law, known as the Freedom of Information Law.
- (b) These regulations provide the procedures by which records of the City of Rye may be obtained, for inspection and copies thereof obtained.
- (c) Personnel of the City of Rye shall furnish to the public the information and records required by law and those which were furnished to the public prior to enactment of the Freedom of Information Law, subject to the conditions contained in subdivision 2 of Section 87 of the Freedom of Information Law, or other provisions of law.

### Section 2. Designation of records access officer.

- (a) The City Manager shall be the Records Access Officer responsible for assuring compliance with these regulations, and designates the following persons as additional records access officers:
  - 1. The City Comptroller for all records in the Department of Finance.
  - 2. The City Assessor for all records in the office of the City Assessor.
  - 3. The Building Inspector for all records in the Department of Buildings.
  - 4. The City Engineer for all records in the Department of Public Works.
  - 5. The City Planner for all records in the offices of the Planning Commission and City Planner.
  - 6. The Police Commissioner for all records in the Department of Police.
  - 7. The City Clerk for all records in the office of the City Clerk and for all other records of the City of Rye not previously mentioned.
- (b) The records access officers shall be responsible for assuring appropriate response to public requests for access to records. The records access officers shall assure that appropriate personnel are adequately instructed in and properly perform the functions described in Sections 6 and 7 of these regulations and shall supervise the administration of these regulations.

### Section 3. Designation of fiscal officer.

The City Comptroller is designated the fiscal officer, who shall certify the payroll and respond to requests for an itemized record setting forth the name, address, title and salary of every officer or employee of the City of Rye.

### Section 4. Location

Records shall be available for public inspection and copying at the office of the records access officers at City Hall, Boston Post Road, Rye, New York, or at the location where they are kept.

#### Section 5. Hours for public inspection.

Requests for public access to records shall be accepted and records produced during all hours regularly open for business except that all records must be returned to their proper custodian at least five minutes before closing time. The City's hours of operation from Memorial Day through Labor Day shall be 8:30 A.M. to 4:30P.M, Monday through Friday except holidays. The hours of operation for the remainder of the year shall be 9:00 A.M. to 5:00 P.M., Monday through Friday, except holidays.

#### Section 6. Request for public access to records

- (a) Requests for records shall be in writing as specified by the records access officer. However, the custodian of the records has discretion to waive the requirement for written requests in appropriate circumstances.
- (b) Officials shall respond to a request for records no more than five business days after receipt of the request. At a minimum, this response will acknowledge receipt of the request and provide an approximate date when a reply will be made.
- (c) A request for access to records should be sufficiently detailed to identify the records. Where possible, the requester should supply information regarding dates, titles, file designations or other information which may help identify the records.
- (d)
  1. A current list, by subject matter, of all records produced and retained in accordance with the Department of Education's State Archives Schedule MU-1, shall be maintained by each records access officer by the City Clerk or the appropriate records access officer and shall be available for public inspection and copying. The list shall be sufficiently detailed to permit the requester to identify the file category of the records sought.
  2. The subject matter list shall be updated periodically and the date of the most recent updating shall appear on the first page. The updating of the subject matter list shall not be less than semiannual.
  3. A duplicate copy of such current subject matter list shall be filed by each records access officer with the City Clerk who shall consolidate and maintain all such current lists. Each records access officer shall keep a copy of these regulations with the subject matter list.
- (e) Appropriate personnel of the City of Rye shall assist the requester in identifying requested records.

- (f) Upon locating the requested records, the appropriate personnel of the City of Rye shall, as promptly as possible, and within the time limits set in subsection (b) above, either:
  - 1. Make the records available for inspection, or
  - 2. Deny access in whole or part, and explain in writing the reasons therefor.
- (g) Upon failure to locate records, the appropriate official shall certify that:
  - 1. The City of Rye is not the legal custodian of the requested records; or,
  - 2. The requested records, after diligent search, cannot be found.

#### Section 7. Inspection and copying of records.

- (a) A person who has requested access to the public records of the City of Rye shall be given full opportunity to see and inspect such records unless access is denied as provided in Section 8 herein.
- (b) The requester may also make a copy of the records he/she inspects. No record may be removed from the office where it is located without written permission of the person in charge of the office at that time.
- (c) Upon request and payment of the established fee, if any, the appropriate officer or employee shall prepare and deliver a transcript of such records.
- (d) Upon request and payment of the established fee, if any, an appropriate official of the City of Rye shall certify as correct a transcript prepared by the custodian of the records.

#### Section 8. Denial of access to records.

- (a) Denial of access to records shall be in writing stating the reason therefor and advising the requester of the right to appeal to the City Council. Appeals must be filed within 30 days of the issuance of such notice.
- (b) If requested records are not provided promptly, as required in Section 6(b) of these regulations, such failure shall also be deemed a denial of access. In such cases, appeals must be filed within 30 days of the date by which the records were to be made available.
- (c) The City Council shall hear and determine appeals from denial of access to records.

- (d) The time for deciding an appeal by the City Council shall commence upon receipt of written appeal identifying:
  - 1. The date of the appeal.
  - 2. The date and location of the requests for records.
  - 3. The records to which the requester was denied access.
  - 4. Whether the denial of access was in writing or was by failure to provide records promptly as required by Section 6 (b).
  - 5. A copy of the written denial, if any.
  - 6. The name and return address of the requester.
- (e) The appeal shall be determined within ten business days of the receipt of the appeal. Written notice of the determination shall be served upon the person requesting the record, the person requesting the exception and the Committee on Open Government. The notice shall contain a statement of the reasons for the determination.
- (f) A person requesting an exception from disclosure, or an agency denying access to a record, shall in all appeal proceedings have the burden of proving entitlement to the exception.
- (g) A proceeding to review an adverse determination upon appeal may be commenced pursuant to Article 78 of the Civil Practice Law and Rules in accordance with all applicable provisions of the law.

#### Section 9. Fees.

- (a) Except as otherwise specifically authorized by law, or by established practice prior to September 1, 1974, there shall be no fee charged for:
  - 1. Inspection of records;
  - 2. Search for records;
  - 3. Any certification pursuant to this part.
- (b) The fee for a photocopy transcript of records shall be 25 cents per single sided page for pages not exceeding 9 by 14 inches.
- (c) The fee for photocopies of records exceeding 9 by 14 inches per page or any non-paper format (such as computer disk, microfilm, etc.) shall be the actual costs of reproduction, which shall be deemed to be the average unit cost for making such a photocopy, excluding fixed costs such as operator salaries, except when a different rate is otherwise prescribed by statute.
- (d) The fee for a transcript that is typed, handwritten, or otherwise prepared by hand shall cover the clerical time involved in making the transcript, including comparison for accuracy.

#### Section 10. Public Notice.

A notice containing the job title or name and business address of the records officers and the appeal body shall be posted in the Office of the City Clerk. A copy of these rules will be kept in the custody of each records officer and be made available for inspection upon request.

#### Section 11. Severability.

If any provision of these regulations or the application thereof to any person or circumstances is adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or impair the validity of the other provisions of these regulations or the application thereof to other persons and circumstances.